

APPENDIX K

Proposed Protective Zoning By-Law

Section 11: Definitions

1. Definitions

In this Bylaw the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Words used in the singular include the plural and words used in the plural include the singular. Words used in the present tense include the future.

Abandonment: Cessation of an activity for a period of two years or more, causing the loss of any right to restore a non-conforming use or activity on a given site.

Affordable Housing: Housing occupied by households with incomes at or below 80% of area median income, as determined and published from time to time by the U.S. Department of Housing and Urban Development. Low- and moderate-income housing must meet the requirements of the Local Initiative Program, 760 CMR 45.00, and be approved for inclusion in the Subsidized Housing Inventory under M.G.L. c.40B, Sections 20-23. A housing unit will generally be considered affordable to low- or moderate-income households if its sale or rental price is equal to or less than 30% of gross monthly income for a low- or moderate-income household whose household size is suitable for the proposed dwelling unit. To comply with this Bylaw, a low- or moderate-income housing unit must be protected by an affordable housing restriction that meets the requirements of 760 CMR 45.00 (Local Initiative Program) and qualifies as an affordable housing restriction under M.G.L. c.184.

Agriculture: In accordance with M.G.L. c. 128, Section 1A, the term “agriculture” includes farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market. As provided in M.G.L. c.40A, Section 3, agriculture on land greater than five acres is an exempt use under this Bylaw.

Alteration: A change in or addition to a building that modifies the location, plan, manner of construction or materials used, or in any way varies the character of its use.

Appeal: An appeal to the Board of Appeals by any person aggrieved by an order or decision of the Building Inspector or other administrative official, pursuant to M.G.L. c. 40A, Section 8.

Assisted Living Facility: One or more dwellings, regardless of structural type (single-family, two-family, multifamily) which are structurally configured to serve the elderly, meeting then-current physical standards for publicly-assisted elderly housing and having no units containing more than two bedrooms; and for which there is publicly-enforceable assurance that each resident household will consist entirely of members at least 55 years old; and for which there is contract assurance of support services, such as meals, housekeeping, social services, health services or transportation.

Basement: A portion of a building partly underground but having less than half of its clear height below the average finished grade of the adjoining ground.

Bed and Breakfast: a private owner occupied residence with one to three guestrooms. The bed and breakfast use shall be subordinate and incidental to the main residential use of the building. Accommodations shall be reserved in advance, and individual guests are prohibited from staying at a particular bed and breakfast establishment for more than fourteen (14) days in any one-year period.

Child Care (or Day Care) Center: A day care or school age child care program as defined in Section 9 of M.G.L. c.28A.

Contractor's Yard: Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of sub-assemblies, and parking of wheeled equipment.

Convenience Store: A small retail establishment, often synonymous with “food mart,” of less than 2,500 square feet of floor space, primarily engaged in retailing a limited line of fast-moving, high turnover goods that usually include milk, bread, soda, beer, snacks and cigarettes, excluding fuel pumps. A convenience store typically has extended hours of operation for the convenience of customers.

Corner Lot: A lot located at the intersection of two or more streets having an angle of intersection of not more than 135 degrees or where the intersection is bounded by a curve having a radius of less than 100 feet.

Coverage. As used in this Bylaw, “coverage” is classified according to the following terms and meanings:

1. **Building Coverage:** The maximum percentage of a lot in any district which is covered by structures which constitute principal and accessory uses thereof. For the purposes of this section, uncovered swimming pools, tennis courts and decks of one hundred square feet or less shall be exempt from the definition of building coverage. Garages, barns, storage sheds or additions and alterations to the principal residential building occupying the lot shall not be exempt from the definition of building coverage.
2. **Lot Coverage:** The percentage of a lot in any district which is covered by impervious surfaces, including the principal building and accessory structures on the lot. For the purposes of this section, such impervious surfaces shall include, and not be limited to, paved driveways and parking areas, sidewalks constructed of impervious materials, principal and accessory structures, and other on-site amenities that render any portion of a lot impervious.

Family Day Care: Child care or day care provided in a single-family dwelling, as defined in Section 9 of M.G.L. c.28A. Unless otherwise stated in this Bylaw, family day care shall be considered an accessory use incidental to a residential use.

Farm: Premises containing at least five acres used for gain in raising or growing agricultural products, poultry, and/or dairy products. (See also, Agriculture.)

Farm-Related Business: A business operated on a farm parcel, related to or supportive of agricultural activities, such as blacksmithing, farm implement repair, and/or roadside sale of agricultural products.

Floor Area: The sum of the horizontal area of the several floors of a dwelling unit measured from the outside, excluding cellar floor areas, basement rooms, garages, porches and open attics or unfinished rooms, and for which a certificate of occupancy has been issued as habitable living quarters. In split-level houses, the first two levels may be counted as one floor, provided that the difference in floor levels is less than five feet.

Gross Floor Area: The sum of the gross horizontal areas of the several floors of a building excluding areas used for accessory garage purposes and such basement and cellar areas as are devoted exclusively to uses accessory to the operation of the building. All dimensions shall be taken from the exterior faces of walls, including the exterior faces of enclosed porches.

Land Use: The purpose for which land or building is occupied or maintained, arranged, designed or intended.

Low Impact Development: An option which permits an applicant to build multi-family dwellings on a lot and single-family dwellings on lots with reduced lot area and frontage requirements so as to create a development in which the buildings and accessory uses are clustered together into one or more groups with adjacent common open land.

Low- or Moderate Income Household: A household with income at or below 80% of area median income, as determined from time to time by the U.S. Department of Housing and Urban Development.

Low- or Moderate Income Housing: A dwelling unit that is affordable to a low- or moderate-income household; see also, Affordable Housing.

Municipal Use: Premises used for any operation by the Town government except as elsewhere more specifically defined.

Nonconforming Use: A use of a building or land that does not conform to all the land use regulations of this Bylaw for the district in which it is located, which use was in existence at the time said land use regulations became effective.

Off-Street Parking: That portion of a lot set aside for purposes of parking, including any necessary aisle space in said facility, but not including roadways or drives connecting said off-street parking space or lot with a street or thoroughfare.

Principal Use: The main use of land or structures on a lot, as determined by the Building Inspector/Zoning Enforcement Officer.

Sanitary Sewer: A sewer that carries wastewater and to which storm, surface and groundwater are not intentionally admitted.

Subsidized Housing Inventory: A listing of low- and moderate-income housing, as defined in M.G.L. c.40B, Section 20, used by the Massachusetts Department of Housing and Community Development (DHCD) to determine whether low or moderate income housing exists in excess of ten per cent of the housing units reported in the latest federal decennial census of each city or town.

Tower: A monopole or lattice structure that is designed to serve as a mount for wireless communications facilities.

Usable Land: Excludes wetlands and floodplains as defined in M.G.L. c.131, Section 40, and areas with slopes of more than 15%.

Use Restriction: A qualification placed upon any or all parts of a site which shall define the uses permitted on the land.

Variance: Relief from strict enforcement of one or more zoning bylaws granted by the Board of Appeals pursuant to authority under M.G.L. c. 40A, Sections 10 and 14.

Way: Any public way or private way shown in a plan approved under the provisions of the Subdivision Control Law or any way in existence when the provisions of said Subdivision Control Law became effective in the Town, having, in the opinion of the Planning Board, suitable width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Yard: An area open to the sky and free of any storage of materials or manufactured products, located between a street or other property line and any structure or element thereof other than:

1. A fence, wall, other customary yard accessory, or steps or other projections allowed to encroach on building lines by the State Building Code, or
2. In side and rear yards only, a tool shed or similar accessory structure having not more than eighty (80) square feet ground coverage.

Yard, Front: A yard extending between side lot lines across the front of a lot on each street it adjoins, measured perpendicular to a line connecting the foremost points of the side lot lines.

Yard, Rear: A yard abutting a rear property line, that is, typically a line or set of lines approximately parallel to the frontage street, and separating lots whose frontage is established on different streets. Yards on irregularly shaped lots where "side" versus "rear" is indeterminate shall be construed as rear yards.

Yard, Side: A yard abutting a side property line, typically a line or set of lines which intersect a street line, separating lots whose frontage is established on the same street, extending between side and rear yards.